



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

Bosch *et al.*

Serial. No. 09/668,650

Filed: September 22, 2000

For: **Genes encoding hybrid *Bacillus thuringiensis* toxins**

Art Unit: 1653

Examiner: G. Bugaisky

Atty Docket: 130-4080C

TERMINAL DISCLAIMER TO OBVIATE A DOUBLE PATENTING REJECTION
OVER A PRIOR PATENT

Commissioner for Patents
Alexandria, VA

Sir:

The owner, Syngenta Participations AG, of 100% interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. §§ 154 to 156 and 173, as presently shortened by any terminal disclaimer of prior Patent No. 5,736,131. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors and assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 to 156 and 173 of the prior patent as presently shortened by any terminal disclaimer in the event that it later: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is

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statutorily disclaimed in whole or terminally disclaimed under 37 C.F.R. §1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as shortened by any terminal disclaimer.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under §1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

The Commissioner is authorized to charge Deposit Account No. 19-0134, in the name of Syngenta, in the amount of \$110.00 for payment of the terminal disclaimer fee under 37 C.F.R. §1.20(d).

Respectfully submitted,



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